

DECISION MEMORANDUM FOR THOMAS J. VILSACK, SECRETARY

THROUGH: Harris D. Sherman
Under Secretary, NRE *H. D. Sherman* 3/13/13

FROM: Thomas L. Tidwell
Chief *Thomas L. Tidwell* FEB 13 2013

SUBJECT: Charter Amendment for the Secure Rural Schools Resource Advisory
Committees

FILE CODE: 1350

ISSUE:

The charter for the Secure Rural Schools Resource Advisory Committees (RACs) needs to be amended in order to allow existing RACs to continue carrying out the requirements of the Secure Rural Schools and Community Self-Determination Act of 2000 (the Act). Title II of the Act calls for local resource advisory committees to review, recommend, and monitor special projects on national forests. Therefore, the Forest Service would like to amend the duration of the charter until September 30, 2013. This is necessary for each RAC to carry out its purpose.

BACKGROUND:

On July 6, 2012, the Secure Rural Schools and Community Self-Determination Act of 2000 (Pub. L. 112-141) (Act) was reauthorized to allow each potential eligible county to elect to receive a share of the State payment or a share of the State's 25-percent payment by August 1, 2012, or as soon thereafter as the Secretary determined to be practicable. The Secretary delegated to me the authority to implement the Act and to determine a practicable date by which each eligible county must elect to receive a share of the State payment or a share of the State's 25-percent payment. September 30, 2012, was determined to be the deadline for the county elections to receive payment. This deadline provided the county with the maximum feasible time to make its election, communicate the election to the Governor, and for the Governor to transmit the election to the Federal Government. Also, the deadline required in the Act for the Governor of an eligible State to transmit the election of an eligible county to allocate its share of the State payment among Titles II and III, or both, or to return funds to the Federal Government.

The Act also provided a 1-year extension to allow the RACs to continue monitoring projects and making recommendations for any appropriate changes or adjustments to the projects being monitored until September 30, 2013.



OPTIONS:

1. Approve the amendment of the Charter, in accordance with the Act, to allow the RACs to continue monitoring projects and making recommendations for any appropriate changes or adjustments to the projects being monitored. The amendment includes revising the duration dates to reflect the reauthorization of the Act.
2. Disapprove the amendment of the Charter for further inquiry and discussion. The disapproval of the Charter amendment would delay the operation of the RACs and make it difficult for the RACs to fulfill the requirements of the Act this fiscal year.

RECOMMENDATION:

The Forest Service recommends the approval of the Charter amendment for the Secure Rural Schools Resource Advisory Committees.

STAFF CONTACT:

Cindy McArthur, Secure Rural Schools National Program Manager
Joe Meade, Director of the National Partnership Office

DECISION BY THE SECRETARY:

Approve: SW Date: 3/18/13

Disapprove: _____

Discuss with me: _____

Reviewed by: _____

Enclosure





Forest Service

CHARTER

1. Committee's Official Designation

Secure Rural Schools Act Resource Advisory Committee.

The federal advisory committees referenced in this charter are collectively known as Secure Rural Schools Act resource advisory committees (RACs). The official designation (title) of each committee and its estimated annual operating expenses and staff support are shown in an addendum to this charter.

Each Secure Rural Schools Act resource advisory committee shall operate in accordance with this charter. This charter and its addendum shall be filed by the Committee Management Officer with the Secretary of Agriculture, the appropriate Congressional committees, the Library of Congress and the General Services Administration's Committee Management Secretariat and posted for each committee in the Committee Management Secretariat's Federal Advisory Committee Act (FACA) data base.

2. Authority

Each Secure Rural Schools Act resource advisory committee is established pursuant to the Secure Rural Schools and Community Self-Determination Act of 2000, 16 U.S.C.A. 7125, hereafter referred to as the Act, and in accordance with the provisions of the Federal Advisory Committee Act, as amended, 5 U.S.C., App.2.

3. Objectives and Scope of Activities

The purpose of each committee is to improve collaborative relationships among the people that use and care for the national forests and to provide advice and recommendations to the Forest Service concerning projects and funding consistent with title II of the Act.

4. Description of Duties

Each committee shall be solely advisory in nature. Advice or recommendations of the committee shall be given only with respect to the purposes of the committee as defined in the Act. All activities of the committee shall be conducted in an open, transparent and accessible manner.

Each committee shall,

- a. Review projects proposed under title II of the Act by participating counties and other entities.
- b. Recommend projects and funding for projects, in accordance with section 203 of the Act, to Secretary, responsible for approving and implementing projects authorized by the Act. Agreement by the majority of members in each of the three membership categories of the committee is required before recommending projects and funding.
- c. Provide early and continuous coordination with appropriate Forest Service officials in recommending projects authorized under title II of the Act.
- d. Provide frequent opportunities for tribal governments, participating county governments, citizens, organizations, land management agencies and other interested parties to participate openly and meaningfully, beginning at the early stages of development of projects authorized under title II of the Act.
- e. Monitor projects that have been approved under title II of the Act and advise the designated Federal officer on the progress and results of the monitoring efforts.
- f. Make recommendations to the Secretary for any appropriate changes or adjustments to the projects being monitored by the resource advisory committee.
- g. Elect by agreement of a simple majority of members, a committee chairperson (or co-chairs) from among the committee's members. The chair will serve for a term of one year.
- h. By agreement of a simple majority of members, adopt such by-laws, operating guidelines or rules of operation as it deems advisable to perform the duties of the committee, consistent with FACA and other applicable laws and regulations and with the approval of the designated Federal officer.

5. Agency or Official to Whom the Committee Reports

Each committee reports its recommendations to the Secretary through the Chief of the Forest Service.

6. Support

Administrative support for each Secure Rural Schools Act resource advisory committee will be provided by the Forest Service.

7. Estimated Annual Operating Costs and Staff Years

The estimated annual operating expenses and staff support for each committee are shown in the addendum to this charter.

In accordance with the Act, members of the committee shall serve without compensation. Committee members and replacements may be allowed travel expenses and per diem for attendance at committee meetings as authorized by 5 U.S.C. 5703 if sufficient funds authorized for such uses are available as determined by the Forest Supervisor responsible for administrative support to the committee. Reimbursement, if

any, will be consistent with procedures and rates applicable to Forest Service employees in travel status.

8. Designated Federal Officer

A permanent Federal employee is to be appointed in accordance with agency procedures and will serve as the Designated Federal Officer (DFO). The duties of the DFO are to:

- a. Call and convene each meeting of the committee, including publication of notices of committee meetings as required by FACA and the Act.
- b. Attend each meeting of the committee.
- c. Chair committee meetings in the absence of the committee's elected chair or co-chair; or when otherwise directed to do so by the Secretary.
- d. Prepare and approve all meeting agendas in coordination with the committee chair.
- e. Review and approve the committee's by-laws, operating guidelines or rules of operation.
- f. Maintain committee records consistent with FACA regulations.
- g. Adjourn any meeting when the designated Federal officer determines adjournment to be in the public interest.
- h. Remove inactive members from the committee.
- i. Call into service as a committee member an appropriate replacement member who has been vetted, approved and appointed by the Secretary.
- j. Provide information to the committee about FACA, the Act and other laws, regulations and policies relevant to the committee's activities and the proposed projects under review by the committee.
- k. Transmit the recommendations of the committee to the Secretary, through the Forest Service.

9. Estimated Number and Frequency of Meetings

The committee will meet as often as necessary to perform its duties, generally one to four times per year, in a location and facility accessible to the public.

Committee meetings will be convened only with the prior approval of the designated Federal officer and with an agenda approved by the designated Federal officer.

As required by the Act, all meetings of the committee shall be open to the public. Interested persons may attend meetings, appear before the committee as time permits, and file written comments with the committee.

A simple majority of the members of the committee must be present to constitute an official meeting of the committee. Attendance may be in-person, by telephone or other electronic means.

In accordance with FACA regulations, notice of each meeting shall be published in the Federal Register at least 15 days before the meeting. In accordance with the Act, notice of each meeting shall be published in the local newspaper of record at least one week in advance of the meeting. Committee members will be notified personally of the date, time, and place of each meeting.

10. Duration

In accordance with the Act, the committee shall make all its recommendations on projects and funding by September 30, 2012. The committee may continue monitoring projects and making recommendations for any appropriate changes or adjustments to the projects being monitored until September 30, 2013.

11. Termination

In accordance with FACA and departmental regulations this charter will expire two years from the date of filing and may be renewed if authorized by legislation.

12. Membership and Designation

Each committee will be fairly balanced in its membership in terms of the points of view represented and the functions to be performed. Steps will be taken to encourage fresh points of view, such as establishing staggered membership terms and limiting the number of renewed memberships.

Nominees will be sought through an open and public process that includes, but is not limited to, nominees submitted by tribal governments, county governments, organizations and individuals who represent the interests specified in the Act.

Equal opportunity practices in accordance with United State Department of Agriculture (USDA) policies shall be followed in all appointments to the committee. To help ensure that the recommendations of the committee have taken into account the needs of the diverse groups served by USDA, membership shall include to the extent possible, individuals with demonstrated ability to represent women, men, racial and ethnic groups, and persons with disabilities.

The USDA prohibits discrimination in all of its programs and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, political beliefs, genetic information, reprisal, or because all or part of an individual's income is derived from any public assistance program.

In accordance with the Act, each committee shall be comprised of 15 members who provide balanced and broad representation from within each of the following three categories of interests specified in the Act:

- a. Five persons who
 - i. represent organized labor or non-timber forest product harvester groups;

- ii. represent developed outdoor recreation, off-highway vehicle users, or commercial recreation activities;
 - iii. represent energy and mineral development, or commercial or recreational fishing interests;
 - iv. represent the commercial timber industry; or
 - v. hold Federal grazing permits or other land use permits or represent non-industrial private forest land owners within the area for which the committee is organized.
- b. Five persons who represent
- i. nationally recognized environmental organizations;
 - ii. regionally or locally recognized environmental organizations;
 - iii. dispersed recreational activities;
 - iv. archaeological and historical interests; or
 - v. nationally or regionally recognized wild horse and burro interest groups, wildlife or hunting organizations, or watershed associations.
- c. Five persons who
- i. hold State elected office (or a designee);
 - ii. hold county or local elected office;
 - iii. represent American Indian tribes within or adjacent to the area for which the committee is organized;
 - iv. represent school officials or teachers; or
 - v. represent the affected public-at-large.

Members shall reside within the State(s) in which the committee is organized. To the extent practical, the membership of each of the three categories will include residents in the vicinity of the national forest for which the committee provides advice.

In accordance with the Act, members and replacements are appointed and or reappointed to 4-year terms. The term begins on the date of the Secretary's decision to appoint the member or replacement.

The Secretary may appoint replacements for each of the three membership categories who may serve on the committee in the event a vacancy arises.

If an appropriate replacement is not available nominees will be sought through an open and public process and submitted to the Secretary for vetting, approval and appointment.

12a. **Ethics**

To maintain the highest levels of honesty, integrity and ethical conduct, no Committee or subcommittee member shall participate in any "specific party matters" (i.e., matters are narrowly focused and typically involve specific transactions between identified parties) such as a lease, license, permit, contract, claim, grant, agreement, or related litigation with the Department in which the member has a direct or indirect financial interest. This includes the requirement for Committee or Subcommittee members to immediately disclose to the DFO (for discussion with USDA's Office of Ethics) any specific party matter in which the member's immediate family, relatives, business partners or employer would be directly seeking to financially benefit from the Committee's recommendations. Members of the Committee shall be required to disclose their direct or indirect interest in leases, licenses, permits, contracts, claims, grants, agreements that involve lands or resources administered by the Forest Service, or in any litigation related thereto. For purposes of this paragraph, indirect interest includes holdings of a spouse or a dependent child.

All members will receive ethics training to identify and avoid any actions that would cause the public to question the integrity of the Committee's advice and recommendations. Members who are appointed as "Representatives" are not subject to Federal ethics laws because such appointment allows them to represent the point(s) of view of a particular group, business sector or segment of the public.

Members appointed as "Special Government Employees" (SGEs) are considered intermittent Federal employees and are subject to Federal ethics laws. SGE's are appointed due to their personal knowledge, academic scholarship, background or expertise. No SGE may participate in any activity in which the member has a prohibited financial interest. Appointees who are SGEs are required to complete and submit a Confidential Financial Disclosure Report (OGE-450 form) and, upon request, USDA will assist SGEs in preparing these financial reports. To ensure the highest level of compliance with applicable ethical standards USDA will provide ethics training to SGEs on an annual basis. The provisions of these paragraphs are not meant to exhaustively cover all Federal ethics laws and do not affect any other statutory or regulatory obligations to which advisory committee members are subject.

13. **Subcommittees**

The committee may create and operate subcommittees as deemed necessary by a simple majority of the committee members and approved by the designated Federal officer. Subcommittees may only conduct preliminary staff work to inform the deliberations of the full committee; decisions and recommendations may be made only by the parent committee. Subcommittees must report back to the parent committee, and must not provide advice, recommendations or work products directly to the Forest Service. Subcommittee activities, advice and work products must be reported in the minutes or other public records of the full committee.

14. Recordkeeping

The records of each committee, formally and informally established subcommittees, or other subgroups of the committee, shall be handled in accordance with General Records Schedule 26, Item 2 or other approved agency records disposition schedule. These records shall be available for public inspection and copying, subject to the Freedom of Information Act, 5 U.S.C. 552. Information about each committee is available online at

https://fsplaces.fs.fed.us/fsfiles/unit/wo/secure_rural_schools.nsf

Information related to specific project proposals reviewed and recommended by each committee shall be reported in the Forest Service Secure Rural Schools Act resource advisory committee data base.

15. Filing Date